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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,864	01/16/2001	Mika Partain	2271/63926	4206

7590 04/27/2007
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EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/760,864

Applicant(s)

PARTAIN ET AL.

Examiner

Matthew S. Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-40, 42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-40, 42 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/5/2007 has been entered.

Prosecution History Summary

Claims 1-22 and 41 have been canceled.

Claims 42-43 have been added.

Claims 23-40 and 42-43 are currently pending in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-40 and 42-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Mesaros (U.S. Patent No. 7,124,099).

Referring to claim 23. A method for promoting product sales in Internet transaction, the method comprising:

- Providing a user interface (Mesaros: Fig. 2, "110") at a customer side for placing a purchase order through the Internet to a seller side, the user interface including an ordering screen for the customer to select at least one product and enter an initial product order including information specifying a quantity of the selected product being ordered (Mesaros: column 7, lines 8-9);
- Comparing the specified quantity of the initial product order, placed by the customer side to the seller side, to a minimum quantity (Mesaros: Fig. 4, "184");
- If the specified quantity of the initial product order is equal to or greater than the minimum quantity, delivering to the customer side display information for a promotion screen containing information regarding a selected promotion which is

Art Unit: 3625

functionally related to the initial product order and is contingent on a revision of the order to make an additional purchase (Mesaros: Fig. 13); and

- If the specified quantity of the initial product order is less than the minimum quantity, processing the initial product order received from the customer side and delivering no promotion information to the customer side (Mesaros: Fig. 14a, "520" and "525").

Referring to claim 24. Claim 24 contains limitations similar to those in claim 23.

Claim 24 is rejected under the same rationale as set forth above in claim 23.

Referring to claim 25. Mesaros further discloses a method wherein if the specified quantity of the specified products is in a second range higher than the first range: delivering to the customer side display information indicative of at least a second promotion that is different from the first promotion (Mesaros: Fig. 4, "188" and "189").

Referring to claim 26. Mesaros does not expressly disclose wherein the first promotion is for retail sales transaction and the second promotion is for a business-to-business transaction. The Examiner notes, the "wherein" clause of claim 26 merely states the result of the limitation in the claim. The wherein clause does not relate back to or clarifies what is required by the claim and is therefore given little patentable weight. See *Texas Instruments Inc. v. International Trade Commission*, 26 USPQ2d 1010 (Fed.

Cir. 1993); *Griffin v. Bertina*, 62 USPQ2d 1431 (Fed. Cir. 2002); *Amazon.com Inc. v. Barnesandnoble.com Inc.*, 57 USPQ2d 1747 (Fed. Cir. 2001).

Referring to claim 27. Mesaros further discloses a method wherein the display information indicative of a first promotion includes information regarding a difference between the initial order quantity and a quantity for qualifying for the first promotion (Mesaros: Fig. 4, “188” and “189”).

Referring to claim 28. Mesaros does not expressly disclose wherein the first promotion includes providing without charge one or more products different from the specified product. The Examiner notes, the “wherein” clause of claim 28 merely states the result of the limitation in the claim. The wherein clause does not relate back to or clarifies what is required by the claim and is therefore given little patentable weight. See *Texas Instruments Inc. v. International Trade Commission*, 26 USPQ2d 1010 (Fed. Cir. 1993); *Griffin v. Bertina*, 62 USPQ2d 1431 (Fed. Cir. 2002); *Amazon.com Inc. v. Barnesandnoble.com Inc.*, 57 USPQ2d 1747 (Fed. Cir. 2001).

Referring to claim 29. Mesaros further discloses a method wherein the customer side and seller side are at geographical remote locations (Mesaros: Fig. 1)

Art Unit: 3625

Referring to claims 30-35. Claims 30-35 contains limitations similar to those in claims 23-29. Claims 30-35 are rejected under the same rationale as set forth above in claims 23-29.

Referring to claims 36-40. Claims 36-40 contains limitations similar to those in claims 23-29. Claims 36-40 are rejected under the same rationale as set forth above in claims 23-29.

Referring to claims 42-43. Claims 42-43 contains limitations similar to those in claim 23. Claims 42-43 are rejected under the same rationale as set forth above in claim 23.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are not persuasive.

The Applicant argues that the cited art does not teach or suggest comparing the quantity of an initial order to a minimum quantity, and if the quantity of the initial order meets or exceeds a minimum quantity, displaying promotion information describing at least one promotion functionally related at least to the quantity, and if the quantity of the initial order is less than the minimum quantity, processing the initial order and displaying no promotion information.

The Examiner notes, Mesaros discloses a discount quantity pricing approach, which involves pricing a product at different levels depending on the quantity of products a customer is willing to purchase. The more products a customer is willing to purchase, the lower the price. Sellers have incentive to lower price for large quantity buyers since the fixed costs associated with producing the product is spread over more items. Thus, sellers are able to make equal or greater profits despite the lowered price of the product.

Mesaros discloses a scenario wherein Buyers visiting a deal room may initially review the current price of a product. The Buyers next determines whether they are interested in purchasing the product keeping in mind the minimum order quantity set by the seller. If a Buyer decides to order a product (e.g., initial order), the Buyer selects an order icon and places an order for a desired quantity. After all product ordering is complete, the total products ordered to date is determined; and if the quantity of the

Art Unit: 3625

group order exceeds a minimum quantity level, the product price is lowered as determined from the pricing schedule set forth in Fig. 13. This initial order buying session continues until the open session period is over. At the end of the open session period, the price of the product to all of the Buyers is the price at the time the open session period ended (Mesaros: column 6, line 65 to column 7, line 32).

Furthermore, Mesaros teaches the use of product pricing ranges as clearly illustrated in Fig. 13.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSG
Primary Examiner
April 18, 2007


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600